



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0576; FRL-9900-25-Region 9]

Revisions to the Arizona State Implementation Plan, Maricopa
County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Maricopa County Area portion of the Arizona State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust sources. We are approving local statutes that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number [EPA-R09-OAR-2013-0576], by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental

Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco,

California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 942-3848, levin.nancy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the statutes addressed by this proposal with the dates that they were signed into law by the Governor and submitted by the Arizona Department of Environmental Quality.

Table 1 - Submitted Rules

Arizona Statute	Statute Title	Signed	Submitted	Revised Submittal
9-500.27	Off-road vehicle ordinance; applicability; violation; classification	July 2, 2007	May 25, 2012	May 21, 2013
11-871	Emissions control; no burn; exemptions; penalty	July 2, 2007	May 25, 2012	May 21, 2013
28-1098	Vehicle loads; restrictions; civil penalties	July 2, 2007	May 25, 2012	May 21, 2013
49-457.03	Off-road vehicles; pollution advisory days; applicability; penalties	July 2, 2007	May 25, 2012	May 21, 2013
49-457.04	Off-highway vehicle and all-terrain vehicle dealers; informational material; outreach; applicability	July 2, 2007	May 25, 2012	May 21, 2013
49-501	Unlawful open	July 2,	May 25,	May 21,

Arizona Statute	Statute Title	Signed	Submitted	Revised Submittal
	burning; exceptions; fine; definition	2007	2012	2013

On July 20, 2012, EPA determined that the May 25, 2012 submittal of Arizona Revised Statutes (ARS) 9-500.27, 11-871, 28-1098, 49-457.03, 49-457.04 and 49-501 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On May 21, 2013 ADEQ identified several statute subsections included in the May 25, 2012 submittal for which Arizona no longer requested EPA SIP approval and provided a revised submittal.

B. Are there other versions of these rules?

There are no previous versions of these statutes in the SIP, although the Maricopa Association of Governments submitted them with the 2007 Five Percent Plan for PM-10, which was subsequently withdrawn.

C. What is the purpose of the submitted rules?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit

regulations that control PM emissions. These statutes regulate PM emissions from off-highway vehicles, all-terrain vehicles, off-road recreational motor vehicles, residential wood burning and vehicle loads. EPA's technical support documents (TSDs) have more information about these statutes. The State is not taking emission reduction credits for these statutes.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193).

Guidance and policy documents that we use to evaluate these requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice," (Blue Book), notice of availability published in the May 25, 1988 Federal Register.
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments

of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.
6. "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures," EPA 450/2-92-004, September 1992.

B. Do the rules meet the evaluation criteria?

We believe these statutes are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules.

The TSDs describes additional rule revisions that we recommend for the next time Arizona modifies the rules but are not currently the basis for rule disapproval.

D. Public comment and proposed action.

Because EPA believes the submitted statutes fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept

comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: August 8, 2013

Jared Blumenfeld,
Regional Administrator,
Region IX.

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